IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1011 OF 2004

Komarswami @ Kumarswami Chandraya Chikti and Anr. ..Appellants

Vs.

State of Maharashtra & Anr. ..Respondents

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Mr.Sandesh D.Patil Advocate for Appellant Nos.1 and 2
Mr.D.P.Adsule A.P.P. for the State
Mr.Sameer Tambekar with Naveen Chomal for Respondent No.2

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 23, 2007

P.C.

1. Heard the learned advocate for the appellant-original accused nos.1 and 2, learned advocate for respondent no.2-original complainant and the learned A.P.P. for the State.

2. Respondent no.2-original complainant was married to appellant no.1 and appellant no.2 is the mother of appellant no.1. Respondent no.2 filed complaint mainly under Section 498-A of IPC against the appellants. After trial, the appellants came to be convicted under Section 498-A read with

Section 34 of IPC and sentenced to R.I. for one year, by judgment and order dated 29.7.2004 passed by the 4th Ad-hoc Additional Sessions Judge, Thane in Sessions Case No.27 of 2004. Being aggrieved by the said judgment, this appeal has been preferred by the appellant.

3. The learned advocate for the respondent no.2-original complainant states that during the said pendency of the appeal, the matrimonial proceedings pending between the parties, were settled amicably and parties entered into consent terms. The respondent no.2 who is present before the Court, states that in view of the settlement, she does not wish to press for the appellants' conviction and the conviction and sentence imposed on them, may be set aside.

4. The learned advocate for the appellants has placed reliance on the decision of the Division Bench of this Court in the case of **Kiran Tulshiram Ingale Vs. Anupama P.Gaikwad; 2006(6) A.I.R. Bom.R 97 (DB)**. In the said case also, the husband was convicted under Section 498-A of IPC. In the said case also, the parties amicably settled the

disputes and the complainant agreed not to press for the conviction of the accused therein. The Division Bench held that in view of these facts, the criminal proceedings can be quashed irrespective of the fact that there was an order of conviction. So also, reliance is placed on the decision of the Single Judge of this Court in the case of **Gambhir Rajan Choudhary and others Vs. Nirmala w/o Bhaskar Choudhary, reported in 2005(2) Mah.Law. Journal page 36.** In the said case, the accused was convicted under Section 498-A read with Section 34 of IPC and in the appeal, on account of the fact that the parties had resolved their differences, the criminal proceedings were quashed.

5. Looking to these facts, the criminal proceedings are quashed. The judgment and order of conviction and sentence 29th July, 2004 passed by the 4th Adhoc Addl.Sessions Judge, Thane in Sessions Case No.27 of 2004, is set aside. Appeal is allowed.

[V.K.Tahilramani, J.]